

REMARKS

In a final office action dated 13 January 2005, the Examiner rejects claims 1-3, 5-12, 14-19, 24-28, 30-43 (all pending claims). In response to the office action, Applicants amend claims 1, 11 and 24 as well traverse the rejections. Claims 1-3, 5-12, 14-19, and 24-28, 30-43 remain in the application. In light of the amendments and following arguments, Applicants respectfully request that all remaining claims be allowed in the alternative Applicants request that this office action be removed from final.

In response to the previous office action, applicants responded by adding the material of dependent claims to each independent claim. No new claimed subject matter was entered into the claims. The Examiner merely changes the references of the rejection to a previously rejected claims. Under current practice, an office action shall be final, except where the Examiner introduces a new ground for rejection neither necessitated by applicant's amendment or by a submitted information disclosure statement. See MPEP §706.07(a). In this application, Applicants only amended the independent claims to include material from dependent claims. Therefore, the Examiner had already presented rejections to the current independent claims and changed the rejections based upon the traversal of the rejections. Thus, the amendment did not necessitate the new rejection. Therefore, applicants should be given an opportunity to respond to the rejection. Thus, Applicants respectfully request that the finality of the office action be removed.

The Examiner rejects claims 1 and 11 under 35 U.S.C. §103(a) as being unpatentable over Aoki in view of U.S. Patent Number 5,630,125 issued to Zellweger.

In order to maintain a rejection the Examiner has the burden of providing evidence of prima facie obviousness. See MPEP §2143. See also In Re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). In order to prove prima facie obviousness, the Examiner must provide evidence in the prior art of a motivation to combine or modify a reference, a reasonable expectation of success, and a teaching of each and every claimed element. *Id.* Applicants assert that the combination of references does not teach all of the claimed limitations and that the Examiner has failed to provide a proper motivation to combine the references.

Amended claim 1 recites the limitation of “read information of branch processing included in said data file wherein said data is stored in a data portion of said data file, and said information of branch processing is stored in a header portion of said data file and said information of branch processing includes one or more processing options wherein each of said one or more processing options is selected from a group consisting of an executable program and a workflow.” This limitation is not taught by either reference or the combination of references. Aoki does not teach this limitation. Aoki teaches the use of a data file to transfer information between objects executed based upon a user selecting Icons. See Col. 9, lines 47-64. Aoki does not teach the reading of branch processing information that is a header of a data file nor the content of the branch processing information. Applicant has read the entirety of Aoki and cannot find any place that mentions storing branch processing information or processing information in general in a header of a data file used to pass data between processes. The Examiner admits as much in the current action.

Zellweger also does not teach this limitation. Instead, Zellweger teaches a system in which a header in a data structure of an object includes inheritance information for manipulating data in the object. See Col. 17, lines 47-50. Thus, the branching described is related to objects and manipulation of the objects and not a process or workflow as recited in the claim. Thus, Zellweger does not teach the branching information recited in amended claim 1.

Since neither Aoki nor Zellweger teaches a header including branch processing information, the combination does not teach a header storing branch processing information. Therefore, Applicants respectfully request that amended claim 1 be allowed.

Furthermore, even if the combination of references teaches a header of a data file including branch processing information described in amended claim 1, the Examiner has not provided evidence of a proper motivation to combine the references. The Examiner merely asserts that it would have been obvious to one skilled in the art to use the headers in Zellweger in the Aoki system. Applicants challenge this assertion. There is no evidence of such logic presented. Furthermore Aoki performs the function perfectly fine alone and the addition of Zellweger is simply hindsight engineering using the keyword from the Applicants claim. If the Examiner wished to maintain this assertion, Applicants request evidence that this assertion is true and a chance to respond to such evidence under §2144.03 of the MPEP. Otherwise this rejection cannot be maintained.

For these reasons, the Examiner has failed to provide a proper motivation to combine the references. Therefore, Applicants respectfully request that amended claim 1 be allowed.

Claims 2-3, and 5-10 are dependent from amended claim 1. Thus, claims 2-3 and 5-10 are allowable for at least the same reasons as amended claim 1. Thus, Applicants respectfully request that claims 2-3 and 5-10 be allowed.

Amended claim 11 recites the same limitation of amended claim 1 of reading branch processing information from a data file wherein the data file has a header including the branch processing information and a data portion. Thus, amended claim 11 is allowable for at least the same reason as amended claim 1. Therefore, Applicants respectfully request that amended claim 11 be allowed.

Claims 12, and 14-19 are dependent from amended claim 11. Thus, claims 12 and 14-19 are allowable for at least the same reasons as amended claim 11. Thus, Applicants respectfully request that claims 12 and 14-19 be allowed.

Claim 24 is rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Number 5,734,905 issued to Oppenheim (Oppenheim) in view of Zellweger. In order to maintain a rejection the Examiner has the burden of providing evidence of prima facie obviousness. See MPEP §2143. See also In Re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). In order to prove prima facie obviousness, the Examiner must provide evidence in the prior art of a motivation to combine or modify a reference, a reasonable expectation of success, and a teaching of each and every claimed element. *Id.* Applicants assert that the combination of references does not teach all of the claimed limitations and that the Examiner has failed to provide a proper motivation to combine the references.

Amended claim 24 recites that a data file is a file for passing data between programs in the header of the file to another. Oppenhiem does not teach passing branching information where the information includes executable programs or workflows as recited in claim 24. The Examiner admits this in the office action.

Zellweger also does not teach this limitation. Instead, Zellweger teaches a system in which a header in a data structure of an object includes inheritance information for manipulating data in the object. See Col. 17, lines 47-50. Thus, the branching described is related to objects and manipulation of the objects and not a process or workflow as recited in the claim. Thus, Zellweger does not teach the branching information recited in amended claim 24.

Since neither Oppenheimer nor Zellweger teaches a header including branch processing information, the combination does not teach a header storing branch processing information. Therefore, Applicants respectfully request that amended claim 24 be allowed.

Furthermore, even if the combination of references teaches a header of a data file including branch processing information described in claim 24. The Examiner has not provided evidence of a proper motivation to combine the references. The Examiner merely asserts that it would have been obvious to one skilled in the art to use the headers in Zellweger in the Openheimer system. Applicants challenge this assertion. There is no evidence of such logic presented. Furthermore Oppenheimer performs the function perfectly fine alone and the addition of Zellweger is simply hindsight engineering using the keyword from the Applicants claim. If the Examiner wished to

maintain this assertion, Applicants request evidence that this assertion is true and a chance to respond to such evidence under §2144.03 of the MPEP. Otherwise this rejection cannot be maintained.

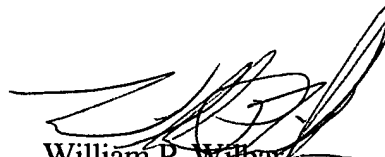
For these reasons, the Examiner has failed to provide a proper motivation to combine the references. Therefore, Applicants respectfully request that amended claim 24 be allowed.

Claims 25-28 and 30-44 are dependent upon amended claim 24. Therefore, claims 25-28 and 30-44 are allowable for at least the same reasons as amended claim 24. Therefore, applicants respectfully request the rejections to claims 25-28 and 30-44 be removed and claims 25-28 and 30-44 be allowed.

If the Examiner has any questions regarding this response or the Application in general, the Examiner is invited to telephone the undersigned at 775-586-9500.

Respectfully submitted,
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